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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,478

09/21/2004

Aaron M. DeLong

MASL-61

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EXAMINER

GORDON, STEPHEN T

ART UNIT

PAPER NUMBER

3612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/711,478

Applicant(s)

DELONG ET AL.

Examiner

Stephen Gordon

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9-28-06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claim 6 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in the reply filed on 5-30-06.

2. Applicant should note, the status of the referenced applications on page 1 of the instant specification should be updated as appropriate to reflect current status.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 02/06682.

Claim 5, connector body 16,24+ with first and second ends which could be used to connect a trim assembly to a support with a first hardness and a sealing gasket 18 integrally molded with the connector body. The gasket is adapted to form a seal as broadly claimed and defines a second hardness less than the first hardness – note the abstract etc.

Claim 9, the gasket is taught as fabricated from a thermoplastic elastomer as broadly claimed.

With additional regard to claim 5, the device is used in an automobile and defines a substrate 12+ adapted as broadly claimed.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/06682 in view of Takeda et al and/or known art practices.

With regard to claims 2 and 7, WO '682 teaches all of the claimed features as discussed above regarding claims 1 and 5 respectively and moreover teaches that the connector body is made from moldable rigid polymer material. The reference fails to specifically teach that the connector body is made of polypropylene.

Polypropylene is a notoriously well known rigid plastic material for use in molding automobile trim/connector components due to its low cost and good operating characteristics. Note also Takeda et al teaches use of polypropylene for forming trim and connector components 22,54+ used with an integrated softer thermoplastic

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elastomer seal (e.g. 56). In order to create a part that is generally low cost and has good operating characteristics, it would have been obvious to one of ordinary skill in the art to fabricate the connector body from polypropylene in view of known art practices and/or the teachings of Takeda et al.

Regarding claims 3 and 8, note the gasket of '682 is fabricated from a thermoplastic elastomer as broadly claimed.

7. Applicant's arguments filed 10-25-06 have been fully considered but they are not persuasive.

It should be noted, in the last office action dated 7-25-06, the examiner clearly indicated that element 12 of Lydan (WO '682) was being relied upon as readable on the recited "substrate" with regard to claim 5 (currently unamended by applicant) – note the end of paragraph 4 of the 7-25-06 action. Applicant has not specifically responded to this interpretation but rather construes a *different* element of Lydan as defining a substrate and then argues why *applicant's* construed substrate is not readable on the claim language. To this end, applicant's remarks regarding Lydan do not specifically respond to the rejection as set forth. Nevertheless, in an effort to expedite prosecution, the following should be noted with regard to applicant's arguments of the 10-25-06 papers. While the examiner appreciates that the instant *disclosed* invention defines characteristics that would appear to be superior to the Lydan (WO '682) device and very well may include patentable subject matter, Lydan as applied to the instant claims as *broadly currently* presented is deemed proper.

Webster's Ninth New Collegiate Dictionary (1990) defines a "substrate" as "a base".

Moreover, the term "substrate" as construed in the art is not relegated to a door panel base structure and is typically construed very broadly by one of ordinary skill in the art.

Element 12 of Lydan clearly defines "a base" and is readable on a "substrate" as such.

Moreover, such element provides "structural support" for the trim assembly 50 as

broadly claimed – e.g. the panel 50 would be precluded from bending to some degree

by plate 12 (see figure 6 of Lydan '682). Substrate element 12 defines a front surface

which would face the vehicle interior and an opposite back surface – again note figure 6

of Lydan. The connecting member 16,24+ is clearly connected to the back surface of

the substrate element 12 – see figure 1 of Lydan '682. While '682 is deemed to define

elements functioning and positioned in the same manner as the elements defined in the

instant claims as broadly presented, the following should additionally be noted. In as

much as the automobile, automobile interior, and support per se are not positively

recited elements of the instant claimed combination, the functional language relating

thereto is given little patentable weight.

As a final note, again the examiner appreciates that applicant's *disclosed* invention has qualities superior to the Lydan device and potentially includes patentable subject matter.

The instant claims as *currently* presented, however, are deemed of sufficient breadth

that the relied upon prior art of Lydan is properly applied under 35USC sections 102 and

103 as detailed above.


8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 1-3-07
Stephen Gordon
Primary Examiner
Art Unit 3612

stg